

ELECTION AND REMARKS

In the restriction requirement, the Examiner has required an election of one of the following groups:

- Group I: Claims 1-9, 11-12, 13-14, 16-17, 18-20, drawn to alkaline sphingomyelinase of SEQ ID NO:1 and 4, their variants, encoding DNA molecules, vectors, host cells, and a method of recombinant production of the enzymes.
- Group II: Claim 10, drawn to a method for the isolation of human Alk-Smase protein from human small intestine or colon.
- Group III: Claim 15, in part, drawn to a method for treating colon cancer comprising administering a composition comprising Alk-Smase of SEQ ID NO:1 or SEQ ID NO:4 or their variants.
- Group IV: Claim 15, in part, drawn to a method for treating colon cancer comprising administering a composition comprising a DNA encoding protein of SEQ ID NO: 1 or SEQ ID NO:4 and their variants.

Responsive to the restriction requirement, Applicants hereby elect group III, directed to claim 15 in part, with traverse.

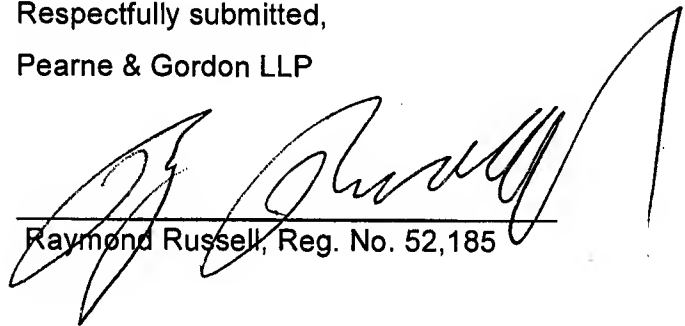
It is to be noted that claim 15 is re-written in independent form. Also, new claims 21-23 are added and should be joined with Group III.

Turning to the issue of traverse, applicants submit that the Examiner has not demonstrated the need for a restriction under the unity of invention standard described in MPEP § 1850. Unity of invention exists if there is a technical relationship among the claimed inventions involving one or more of the same or corresponding technical features, such that they are linked to form a single general

inventive concept. In the present case, the inventive concept of the use of Alk-Smase of the claimed sequences provides a technical relationship among the recited claims. 37 CFR 1.475, recited by the Examiner as not providing for multiple methods within a single application, merely states that failure to match the recited categories indicates that unity of invention "might not be present," not that it is definitively absent. Accordingly, Applicants respectfully request that the requirement for restriction of the claims be withdrawn.

If the Examiner has any questions or comments with respect to this reply, the Examiner is invited to contact the undersigned attorney at (216) 579-1700. Furthermore, if there are any fees resulting from this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. ALBI-41348.

Respectfully submitted,
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